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IMPLEMENTATION OF THE *MANDATORY BLOOD TESTING ACT, 2006*

The Health and Emergency Medical Services Committee recommends the adoption of the recommendation contained in the following report, October 23, 2008, from the Commissioner of Community and Health Services

1. RECOMMENDATION

It is recommended that:

1. The Regional Clerk circulate this report to local municipalities for review and dissemination, as appropriate.

2. PURPOSE

This report provides an overview of the *Mandatory Blood Testing Act, 2006*, which was implemented in August 2007, and outlines the change in responsibilities of the Medical Officer of Health.

3. BACKGROUND

The *Mandatory Blood Testing Act, 2006* came into effect August 10, 2007

The *Mandatory Blood Testing Act, 2006* came into force on August 10, 2007. The Act made significant amendments to the existing related legislation set out in the *Health Protection and Promotion Act*.

The *Mandatory Blood Testing Act, 2006* allows individuals who have been exposed to bodily substance of another person to apply to have a blood sample of that person tested

The *Mandatory Blood Testing Act, 2006* permits a person (applicant) to apply to a Medical Officer of Health to have the blood of the another person (respondent) analyzed for Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS), Hepatitis B and Hepatitis C if he or she came into contact with the bodily substance of that person in any of the following circumstances:

1. As a result of being a victim of crime.
2. While providing emergency health care services or emergency first aid to the person, if the person was ill, injured or unconscious as a result of an accident or other emergency.
3. In the course of his or her duties, if the person belongs to an identified group of individuals including:
 - Persons who are employed in a correctional institution, place of open custody or place of secure custody.
 - Police officers, civilian employees of a police service, first nations constables and auxiliary members of a police force.
 - Fire fighters and volunteer fire fighters.
 - Paramedics and emergency medical attendants.
 - Paramedic students engaged in field training.
 - Members of the College of Nurses of Ontario.
 - Members of the College of Physicians and Surgeons of Ontario.
 - Medical students in training.
4. While being involved in a prescribed circumstance while carrying out a prescribed activity.

4. ANALYSIS AND OPTIONS

The Mandatory Blood Testing Act, 2006 reduces the process time for applicants

The Mandatory Blood Testing Act, 2006 differs from the former process set out in the *Health Protection and Promotion Act* in a number of significant ways:

- The responsibility for the mandatory blood sampling process has transferred from the Ministry of Health and Long-Term Care to the Ministry of Community Safety and Correctional Services.
- The authority to order individuals to be tested has been transferred from the Medical Officer of Health to the Consent and Capacity Board.
- The Medical Office of Health is no longer required to evaluate the risk of exposure and make an order requiring a respondent to provide a blood sample for analysis.
- Timelines for the Medical Officer of Health to implement the voluntary process have been reduced from seven days to two days.

- The order of the Consent and Capacity Board issued is final.

The role of the Medical Officer of Health has shifted from adjudicative to administrative

In the former process under the *Health Protection and Promotion Act* relating to the applications for the taking of blood samples in the event of contact of bodily fluids between individuals, the Medical Officer Health was responsible for adjudicating applications, making a determination concerning the risk of exposure and the validity of requesting the respondent to provide a voluntary blood sample and making orders. Under the *Mandatory Blood Testing Act, 2006*, the Medical Officer of Health is required only to screen and process a complete application.

If the requirements of an application are met, the Medical Officer of Health would request the respondent to provide a blood sample within 2 days

The Medical Officer Health where the respondent resides screens applications to ensure that they meet the requirements of the Act. If the Medical Officer Health determines that the requirements have not been met, he/she will notify the applicant in writing within two days of making a decision that the Medical Officer Health cannot forward the application to the Consent and Capacity Board. If the requirements are met, the Medical Officer Health will notify the applicant and will attempt to contact the respondent within two days and request that the respondent provide a voluntary blood sample for analysis.

If the blood sample cannot be obtained voluntarily, the Medical Officer of Health would refer that application to the Consent and Capacity Board

If the respondent does not provide a blood sample voluntarily within two days of the Medical Officer Health receiving the application or if the respondent cannot be located, the application will be referred to the Consent and Capacity Board for consideration. The Board must complete a hearing within seven days of receiving the referral and make its determination within one day after the hearing ends concerning whether the respondent will be required to provide a blood sample for analysis. If an order is made requiring the respondent to provide a blood sample, the respondent has a maximum of seven days from the date the order is made to comply.

York Region Public Health Branch has developed procedures to optimize the process

York Region Public Health Branch has developed policies and procedures to ensure that the mandate of the *Mandatory Blood Testing Act, 2006* is effectively carried out. In particular, the Branch has developed procedures to optimize the ability to locate respondents and to recommend voluntary testing provided the respondents are able to provide consent.

5. FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal implications associated with this report.

7. CONCLUSION

With the change in legislation, the *Mandatory Blood Testing Act, 2006* expedites collecting blood samples from the respondent when an applicant is potentially exposed to a bloodborne infection. It also transfers the power from the Medical Officer of Health to the Consent and Capacity Board to order the respondent to comply if the respondent refuses voluntarily to submit a blood sample.

It is recommended that this report be circulated to local municipalities in York Region for review and dissemination as appropriate.

For more information on this report, please contact Dr. Karim Kurji, Medical Officer of Health at Ext. 4012.

The Senior Management Group has reviewed this report.